

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO. 22617 OF 2006

DATE: 5.11.2007

Between:

M. Jayamma W/o Late Bangaraiah Shetty, aged about 52 years,
Kurnool District.

...Petitioner

AND

1. The Regional Provident Fund Commissioner, Barkatpura, Hyderabad and three others .

....Respondents

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HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 22617 of 2006

Order:

The petitioner's husband, namely Bangaraiah Shetty, was an employee of M/s. Panyam Cements. He having joined the said company in 1959 retired from service on 25.08.1994 on attaining the age of superannuation. A year thereafter, the petitioner's husband died on 08.09.1995. Pursuant to her husband's death, the petitioner states that she made representations to the respondents requesting them to sanction family pension, but in vain.

The petitioner states that her husband while in service was member of the Employees Family Pension Scheme, 1971, which was in force until 15.11.1999, when it was replaced by a new scheme called Employees Pension Scheme, 1995. The petitioner states that since her husband completed more than 36 years of service, she is entitled for sanction of pension under the Employees Family Pension Scheme, 1971, and more so when her husband retired from service, while the said scheme was in force. As the respondents despite her making representations, did not sanction the family pension, she filed the present writ petition.

As there was no representation on behalf of the petitioner on the last occasion, the matter was directed to be listed under the caption "for orders". Today, though the writ petition is listed under the caption "for orders", neither the petitioner nor his counsel are present, nor is there any representation made on their behalf.

Heard the learned Standing Counsel for the respondents.

Though the petitioner contends that since her husband was member of the Family Pension Scheme, 1971, she is entitled to be sanctioned family pension under the said scheme, the fact remains, which is evident from the counter filed by the respondents, the petitioner's husband, who joined the service of Panyam Cements in the year 1959, was admitted as member of Employees Provident Scheme, 1952 on 01.01.1962, and since then he contributed to the said scheme. While so, Family Pension Scheme, 1971 came into existence w.e.f. 01.03.1971, and it is the case of the respondents that the said scheme was made compulsory to the employees who joined on or after 01.03.1971, and in respect of employees, who were already

working and were members of Employees Provident Fund Scheme, 1952, it was optional. It is the specific case of the respondents that the petitioner's husband did not exercise his option to become member of Family Pension Scheme, 1971 and did not contribute to the said scheme, and instead he continued to be the member of Employees Provident Fund Scheme, 1952 and having contributed to the said scheme, was paid an amount of Rs.1,89,190/-, after his retirement. Since the petitioner's husband did not opt to become member of Family Pension Scheme, 1971, the petitioner is not entitled to sanction of pension under the said scheme, even though the said scheme was in force till 16.11.1995, when the new Employees Pension Scheme, 1995 came into operation.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No order as to costs.

N.V. RAMANA, J.

Date: 05.11.2007

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